

UNITED STATES DISTRICT COURT

for the
District of New Mexico

United States of America)

v.)

Angel Osvaldo MONTOYA)

Manuel Alejandro MATEO)

Gabriel CUEVAS)

Case No:

19 MJ 2094

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief. On or about the date of July 11, 2019 in the county of Dona Ana in the State and District of New Mexico, the defendant violated 8 U.S.C. § 1324(a)(1)(A)(v)(I)(Conspiracy to Violate 1324 - All subsections), an offense described as follows:


engaged in a conspiracy to commit a violation of 8 USC 1324(a)(1)(a)(v)(I) Conspiracy, to wit: 8 USC 1324(a)(1)(a)(ii) Transporting, knowing or in reckless disregard of the fact that, ALIENS, had come to, entered, or remained in the United States in violation of law, transport, or move or attempt to transport or move such aliens within the United States by means of transportation or otherwise, in furtherance of such violation of law

This criminal complaint is based on these facts:

On July 11, 2019, a Border Patrol Agent Canine Handler was assigned in the Santa Teresa Border Patrol Station area of responsibility. At approximately 2015 hours, the agent positioned himself at an empty parking lot of a building known to agents as the Onion Warehouse. This warehouse is located approximately 300 yards north of the U.S./Mexico International Boundary. Alien and Narcotic Smuggling Organizations commonly exploit this area due to its proximity to the border.

At approximately 2030 hours, the agent observed two vehicles arrive to the onion warehouse and park within close proximity of his position.

☒ Continued on the attached sheet.


Complainant's signature

Matthew Serwach, Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: July 15, 2019

City and state: Las Cruces, N.M.


Judge's signature

GREGORY B. WORMUTH
U.S. MAGISTRATE JUDGE

Printed name and title

CONTINUATION OF CRIMINAL COMPLAINT

STATE AND DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA

V.

Angel Osvaldo MONTOYA
Manuel Alejandro MATEO
Gabriel CUEVAS

Continuation of Statement of Facts:

The agent noticed that one vehicle was a dark in color Chevrolet Malibu and the other was a silver Mitsubishi Lancer. Approximately 3 minutes later, the agent observed both vehicles leave the parking lot and drive towards the U.S./Mexico International Border Fence. As both vehicles were driving towards the border fence, the agent witnessed several subjects jump over the border fence from Mexico into the U.S. The agent then observed the subjects board both the dark in color Chevrolet Malibu and the Mitsubishi Lancer.

The agent advised other agents via his service radio of his observation, and the events transpiring. The agent positioned his unmarked Border Patrol vehicle behind the dark in color Chevrolet Malibu and requested record checks on Texas tags HGV3657 through El Paso Sector Communications (KAK-880). As the Chevrolet Malibu was travelling westbound on Binational Avenue, the agent activated his emergency lights and sirens in order to conduct an immigration stop. Initially, the vehicle did not stop and continued westbound towards Pete Domenici Highway. Before the Chevrolet Malibu reached Pete Domenici Highway, it made an abrupt right turn onto the New Mexico Department of Transportation parking lot where it came to a complete stop.

As the agent approached the vehicle on the driver's side, he identified himself as a United States Border Patrol Agent. Before he could question any of the occupants, the agent observed the rear passenger door open and noticed the rear passengers attempting to bail out. The agent immediately ran towards the opposite side of the vehicle and closed the door while ordering the driver to turn off the vehicle. As this is going on, another Border Patrol Agent arrived on scene and assisted the agent. One of the agents then began questioning the subjects as to their citizenship and immigration status.

The driver later identified as MATEO, Manuel Alejandro (DEFENDANT 1), and the front passenger identified as CUEVAS, DEFENDANT 2 (DEFENDANT 2) both claimed to be a U.S. Citizens. As the agent was questioning the three additional subjects that were sitting in the rear seat, the other agent noticed that DEFENDANT 2 was utilizing his cell phone. The agent ordered DEFENDANT 2 to put the phone down and place his hands over his head which DEFENDANT 2 refused to obey the commands. The agent then opened the passenger door and pulled DEFENDANT 2 out of the vehicle, and performed an immediate area frisk to ensure there were no weapons on his person. DEFENDANT 2 became verbally assaultive and began to resist. The agent immediately placed handcuffs on DEFENDANT 2 and laid him on the ground. The other agent continued to question the remaining occupants of the vehicle. The three subjects sitting in the rear seat claimed to be citizens from El Salvador, Honduras and Ecuador and to not having any immigration documents that would allow them to enter, or be in the United States legally. The three subjects also admitted to having just made an illegal entry into the United States. At this time, all subjects were placed under arrest and transported to the Santa Teresa Border Patrol Station for processing.

While the two agents were conducting a vehicle stop on the Chevrolet Malibu, another Border Patrol Agent who was assigned line-watch duties in zone 16, responded to the area in an effort to assist with the other vehicle. The agent arrived to the area and witnessed the silver Mitsubishi Lancer bearing New Mexico license plate 492 WCF stopped near the U.S./Mexico International Boundary. The agent observed two females running towards the Mitsubishi Lancer but only witnessed one female board the vehicle. The Mitsubishi Lancer immediately departed the area as soon as the driver noticed the Border Patrol Agent, leaving one female behind.

The agent immediately positioned himself behind the vehicle and attempted to make a vehicle stop by activating his emergency equipment. The agent advised other Border Patrol Agents who had also responded to the scene, to apprehend the female that was left behind. One agent approached the female and identified himself as a United States Border Patrol Agent and questioned her as to her citizenship. The female admitted to not having any immigration documents that would allow her to enter, or be in the United States legally. She also admitted to having just made an illegal entry into the United States. The agent then placed her under arrest.

A Border Patrol Agent followed the Mitsubishi Lancer westbound on Binational Avenue for approximately one half mile before the vehicle came to a complete stop and four occupants bailed out and began to run north into the desert. Other Agents responded to the area to search for all subjects. The agents followed the footprints of three individuals and encountered three females hiding in some brush just north of where the Mitsubishi Lancer had stopped. An Agent identified himself as a United States Border Patrol Agent and questioned all the individuals as to their citizenship. Two of the females claimed they were citizens and nationals of El Salvador and one was from Honduras. All three subjects admitted to having just made an illegal entry and to not having any documentation that would allow them to enter, be or remain in the United States legally.

Another agent followed footprints of the last remaining subject. The agent encountered the male driver later identified as MONTOYA, Angel (DEFENDANT 3) trying to conceal himself under some brush. The agent identified himself as a United States Border Patrol Agent and questioned the individual as to his citizenship, which he claimed to be a U.S. Citizen. At this time all subjects were placed under arrest and transported to the Santa Teresa Border Patrol Station for processing.

DEFENDANT ONE STATEMENT:

On July 12, 2019 DEFENDANT 1 made the following post Miranda statement, but not verbatim, to Border Patrol Agents regarding his involvement in the aforementioned alien smuggling scheme.

DEFENDANT 1 stated that the front passenger that was with him when he was arrested, is his friend DEFENDANT 2 who he has known for approximately 8 months.

DEFENDANT 1 stated he received a call from his friend DEFENDANT 2 earlier today (7/11/2019) asking if he wanted to do a special Uber ride. He further stated that his friend DEFENDANT 2 offered to pay him \$400 to \$800 USD to pick up four persons on the far west side of town. DEFENDANT 1 stated he agreed to do it because he was in need of money. DEFENDANT 1 stated he then left his home and picked up his friend DEFENDANT 2 and drove towards the west side of El Paso. DEFENDANT 1 stated that his friend DEFENDANT 2 instructed him to park by a "dance hall" that was located near the Upper Valley Street and Artcraft intersection.

DEFENDANT 1 stated that while they were driving, DEFENDANT 2 had been talking to an unknown individual via his cell phone who they were going to meet by the dance hall. Once at the dance hall parking lot, DEFENDANT 1 stated that DEFENDANT 2 got out of the vehicle and walked up to and started talking to an individual who was driving a gray car with temporary paper plates. DEFENDANT 1 describes that person as being a tall, skinny, clean cut male who appeared to be in his early 20's. DEFENDANT 1 stated that DEFENDANT 2 then returned to his vehicle and instructed him to follow the gray vehicle with paper plates southbound on Artcraft St. towards the Mexican border. DEFENDANT 1 stated that DEFENDANT 2 told him there was a third vehicle who was now following them who was going to help them pick up the individuals that they were going to pick up.

DEFENDANT 1 stated that they pulled off to the side of the road before they arrived to the U.S./Mexico border and were instructed to jump into the gray vehicle with paper plates. DEFENDANT 1 stated that there was a male and a female in the vehicle when he and DEFENDANT 2 boarded the vehicle. DEFENDANT 1 also stated that a male driving the third vehicle also boarded the vehicle with them. Once in the vehicle, DEFENDANT 1 stated that the person driving told them that he was going to take them to the place where they were going to pick up the individuals. DEFENDANT 1 stated that they left his vehicle behind and they all drove to an area that was located near the Santa Teresa Port of Entry. DEFENDANT 1 stated that when they arrived at the pickup location, he could see the U.S./Mexico border fence at a short distance away. DEFENDANT 1 stated that the male driving pointed to the area where the individuals who they were going to pick up were going to be waiting for them. DEFENDANT 1 then stated that they drove out of the area and returned to where they had left their vehicles.

DEFENDANT 1 stated that once they returned to their vehicles, the person driving the gray vehicle with paper plates instructed them and the other male driving the third vehicle to drive to the location he had just taken them to and to wait for the individuals to arrive. DEFENDANT 1 stated that they then drove and parked where they had previously been instructed and waited for further instructions. DEFENDANT 1 stated that within a couple of minutes, DEFENDANT 2 instructed him to drive towards the U.S./Mexico border fence where he observed several individuals jumping over the

barrier from Mexico into the U.S. DEFENDANT 1 stated he then stopped and let three individuals into his vehicle and quickly departed the area. DEFENDANT 1 stated he immediately noticed a Border Patrol vehicle attempting to pull him over but did not feel safe so he drove to the nearest well lit area and stopped his vehicle. DEFENDANT 1 stated that his friend DEFENDANT 2 was on the phone while Border Patrol was following them and that he could hear him saying, "It's a setup, it's a setup". DEFENDANT 1 stated that they were then arrested by Border Patrol.

DEFENDANT THREE STATEMENT:

On July 11, 2019, DEFENDANT 3 made the following post Miranda statement, but not verbatim, to Border Patrol Agents regarding his involvement in the aforementioned alien smuggling scheme.

DEFENDANT 3 stated that a friend of his asked him if he wanted to make some money by picking up illegal aliens near the U.S./Mexico border. DEFENDANT 3 stated that he agreed because he claimed to be homeless at the moment. DEFENDANT 3 stated that his friend then gave his phone number to some smugglers that live in Ciudad Juarez.

DEFENDANT 3 stated that on July 10, 2019, he received a phone call from a Mexican phone number asking if he was willing to pick up two illegal aliens and they would pay him \$200 USD per person. DEFENDANT 3 stated that although he really needed the money, he declined the offer because he was scared.

DEFENDANT 3 stated that on July 11, 2019, he received another call from the same Mexican phone number, but this time the person calling asked if he could pick up four illegal aliens and that he would pay him \$200 USD per alien. DEFENDANT 3 stated he agreed to the offer and was given instructions to drive to an unknown location on the west side of El Paso to meet with an individual (DEFENDANT 2). When he arrived, DEFENDANT 3 stated that DEFENDANT 2 was driving a gray car and that he was accompanied by two other male subjects who were also going to be picking up illegal aliens. DEFENDANT 3 stated that DEFENDANT 2 then told him and the other two males that were with him, to get into his vehicle so he could take them to the location where they were going to pick up the illegal aliens. DEFENDANT 3 stated that DEFENDANT 2 then drove them to an area that was located near the border next to a warehouse. DEFENDANT 3 stated that DEFENDANT 2 told them that the illegal aliens would be jumping the border fence then running towards their vehicles. DEFENDANT 3 then stated that DEFENDANT 2 drove them back to their vehicles and told them to go pick up the illegal aliens. DEFENDANT 3 stated that they then drove back to the place that they had previously been taken to and parked in front of a warehouse. DEFENDANT 3 stated that within a couple of minutes he observed several people jumping over the border fence, he then drove towards them and allowed three of them to get into his vehicle. DEFENDANT 3 stated that immediately after he left, he noticed a Border Patrol vehicle attempting to pull him over. DEFENDANT 3 stated he became nervous and sped off before coming to a complete stop a short distance away at which point he attempted to evade arrest by running into the desert. DEFENDANT 3 was then arrested by Border Patrol and transported to the station.

Material Witness Statement #1:

The following is the MATERIAL WITNESS post Miranda statement, non-verbatim, as to the smuggling scheme that happened yesterday (07/12/2019).

MATERIAL WITNESS stated that he made arrangements to cross illegally into the United States with a smuggler. MATERIAL WITNESS stated he paid the smuggler \$7000.00 USD so he could smuggle him into the United States.

MATERIAL WITNESS stated he arrived to Ciudad Juarez on 07/04/2019 and was picked up by a smuggler at the bus station and taken to an unknown hotel. MATERIAL WITNESS stated he stayed at the hotel for a few days until the smugglers picked him up and moved him to a house, where two adult females and their three children were staying.

MATERIAL WITNESS stated that on 07/11/2019 the smugglers picked him up and took him to the desert. MATERIAL WITNESS stated once in the desert one of the smugglers told them there were going to be two cars arriving and picking them up. MATERIAL WITNESS stated that the smuggler told them that the first car would be picking up him and 2 other males and the females would be going in the second car.

As soon as the vehicles arrived, MATERIAL WITNESS stated that the smugglers instructed the men to jump over the border fence and board the nearest vehicle which he described as a dark in color sedan.

MATERIAL WITNESS stated that the vehicle left the area as soon as all three of them jumped in the vehicle. MATERIAL WITNESS stated that there was two male subjects in the vehicle before they jumped in. MATERIAL WITNESS stated the

driver had facial hair and the front passenger was a heavier set person with a white shirt and no facial hair.

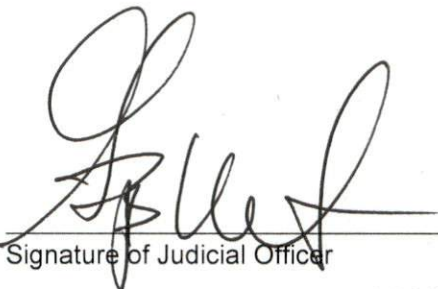
MATERIAL WITNESS stated that when both the driver and the front passenger noticed that a white pick-up truck was following them with the lights and sirens, the driver asked the passenger, "que vamos a hacer?" what are we going to do? MATERIAL WITNESS stated the passenger responded with, "dejame le hablo a alguien" let me call someone. MATERIAL WITNESS stated the driver asked the passenger again, "y a quien le vas a hablar" who are you going to call. MATERIAL WITNESS stated the driver eventually pulled over and they were all arrested by Border Patrol.

DISPOSITION:

Border Patrol Agents contacted the New Mexico Assistant United States Attorney (AUSA) Richard Williams and presented the 3 on 7 failed alien smuggling scheme. AUSA Richard Williams approved criminal prosecution under 8 USC 1324 Conspiracy to Transport Aliens for DEFENDANT 1, DEFENDANT 2 and DEFENDANT 3. All three principals will be remanded to custody of Otero Prison Facility pending their initial hearing.

MATERIAL WITNESS will be processed accordingly and remanded to the custody of the Material Witness coordinator.

Continuation of Statutory Language:



Signature of Judicial Officer

GREGORY B. WORMUTH
U.S. MAGISTRATE JUDGE



Signature of Complainant

Serwach, Matthew
Filing Agent